November 9, 2015

Re: S. 2123 (the Sentencing Reform and Corrections Act of 2015)

Dear Senator:

On behalf of the American Bar Association (ABA), I write to express our support for S. 2123, the Sentencing Reform and Corrections Act of 2015, and to ask you to cosponsor the bill now and vote for its passage when it is considered by the full Senate.

The ABA strongly commends Senate Judiciary Chairman Grassley and Senator Durbin for leading remarkable bipartisan negotiations that included Senators Cornyn, Whitehouse, Lee, Graham, Leahy, and Booker; the result is a worthy reform consensus on complex and difficult sentencing and corrections issues that was approved by the Judiciary Committee on October 19 with a strongly bipartisan vote. While S. 2123 is a compromise that does not go as far as the ABA would prefer in overhauling federal sentencing policy, it takes a number of important steps forward to reduce reliance on mandatory minimum sentences for low-level drug offenders and to improve fairness in the federal system.

Over the last 30 years, the United States has relied on incarceration and lengthy prison terms more than any other nation. With just 5% of the world’s population, the U.S. holds nearly a quarter of the world’s prisoners, including one-third of all women incarcerated worldwide.

The federal prison population has increased nearly 800% since 1980 and more than doubled since 1994, with spending up 1700% over that period, and federal prisons are currently operating at 131% of capacity. This is due in major part to the proliferation of mandatory minimum sentences. Nearly half of all federal prisoners are serving sentences for nonviolent drug crimes.

Experience has shown that mandatory minimums have not only contributed to the vast increase in the nation’s incarceration rate, but have exacerbated the levels of racial disparity in the criminal justice and correctional systems. African Americans and Latinos make up about three-quarters of the federal prison population while representing only about one-third of the nation’s population. The U.S. Sentencing Commission has reported that mandatory minimum sentences are imposed on people of color at similarly disproportionate rates. This bill offers substantive revisions to the federal sentencing system that will help reduce our reliance on lengthy prison terms for low-level offenses,
lessen the disparate impact of federal sentencing policies on African Americans and Latinos, and change direction away from policies that are unsustainable.

The ABA supports provisions in S. 2123 to narrow the applicability of some drug-related mandatory minimums and reduce others; to expand “safety-valve” authority; and to apply certain reductions retroactively, including those enacted in the Fair Sentencing Act of 2010, in qualified cases. While we are disappointed by the inclusion of two new mandatory minimum sentencing provisions in the bill, we believe that S. 2123 will, overall, create a more just sentencing system than the one currently in place. Enactment will help focus prosecutorial and correctional resources on offenders who commit serious crimes that pose the greatest risk to public safety and will permit more sentencing flexibility for low-level, nonviolent offenders whose role and culpability will now receive more careful and balanced consideration by sentencing judges.

The ABA also supports new provisions in the bill to expand recidivism-reducing prison programs that allow participating prisoners to earn credits toward early supervised release and the expansion of “compassionate release” for elderly, terminally ill prisoners. We further support provisions to end federal juvenile life without parole, to ban juvenile solitary confinement, and to permit juveniles to obtain expungement of certain criminal records.

We urge you and all senators who have not yet committed support to consider cosponsoring S. 2123 and to vote for its final passage without weakening amendments so that it may soon be enacted into law.

Sincerely,

Paulette Brown